

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1329**

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**Introduced by Assembly Member V. Manuel Pérez**

February 22, 2013

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An act to amend Sections 25135.9, 25161, 25162, 25178, 25186, 25200, and 25200.5 of, and to add Sections 25117.3, 25122.10, 25135.10, 25135.11, and 25150.9 to, the Health and Safety Code, relating to hazardous waste.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1329, as amended, V. Manuel Pérez. Hazardous waste: environmental justice.

**Existing**

(1) *Existing* law requires the California Environmental Protection Agency to develop a strategy for identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice, as defined, and requires each board, department, and office within the agency to review its programs, policies, and activities and identify and address any gaps in its existing programs, policies, or activities that may impede the achievement of environmental justice. ~~Existing~~

*Existing law requires the Department of Toxic Substances Control to prepare and adopt a state hazardous waste management plan by November 30, 1991, and to revise the plan at least once every 3 years. The state plan is required to be prepared in conjunction with, and take into account, certain local hazardous waste management plans.*

*This bill would instead require the department to prepare and adopt, by January 1, 2016, a state hazardous waste management plan to*

*address the matter of environmental justice in the management of hazardous waste and to serve as a comprehensive and enforceable planning document for the state. The bill would specify the elements required to be included in the plan and would require the plan to be reviewed and revised, as specified. The bill would require the Director of Toxic Substances Control to approve the plan and to submit the plan to specified committees of the Legislature.*

*The bill would require the department to adopt regulations to ensure that minority populations and low-income populations are not disproportionately impacted by the adverse human health, social, economic, and environmental effects of the hazardous waste managed pursuant to the hazardous waste control law. Since a violation of the regulations adopted pursuant to the hazardous waste control law is a crime, the bill would impose a state-mandated local program. The bill would allow a person to commence a civil action on that persons's own behalf against a person who is alleged to be in violation of those regulations or alleging a failure by the department to perform an act or duty pursuant to specified provisions.*

*(2) Existing law prohibits a person from accepting, treating, storing, or disposing of hazardous waste unless the person holds a hazardous waste facilities permit or authorization, or is operating under a permit-by-rule or a grant of conditional authorization or conditional exemption. The department is required to issue a hazardous waste facilities permit to a facility that, in the judgment of the department, meets specified requirements. The permit is required to be issued for a fixed term and existing law specifies a procedure for the extension of that term. Existing law provides for the enforcement of the hazardous waste control law, including authorizing the department to issue a corrective action order or denying, suspending, or revoking a permit applied for or issued, if the applicant or permitholder has taken specified actions.*

~~This bill would declare the intent of the Legislature to enact subsequent legislation to require the Department of Toxic Substances Control to develop a long-term plan to identify inequities in the siting of hazardous waste disposal facilities and provide for enforceable strategies to eliminate those inequities. prohibit the department from issuing a hazardous waste facilities permit to the operator of a hazardous waste facility if the department finds the facility has not complied with a corrective action order, until the date when the director~~

*approves the state hazardous waste management plan specified above and submits the plan, as specified.*

*The bill would authorize, instead of require, the department to issue a hazardous waste facility permit that meets those requirements and would additionally require the facility to comply with the regulations specified above that the bill would require the department to adopt.*

*The bill would define the term “significant noncomplying operation” and would prohibit the department from issuing a hazardous waste facilities permit to a significant noncomplying operation. The bill would prohibit the owner or operator of a significant noncomplying operation from utilizing the existing procedure for the extension of the term of a permit and would authorize the department to revoke a permit, registration, or certificate if the permitholder or applicant engages in activities resulting in the applicant or permitholder meeting the conditions of a significant noncomplying operator.*

*(3) Existing law authorizes the department to grant interim status for the operator of certain hazardous waste facilities and prohibits the department from issuing interim status to a person meeting certain conditions.*

*The bill would additionally prohibit the department from granting interim status to a person who has 3 or more class I violations or a pending order for corrective action, other order or enforcement action, or settlement and would require the department to revoke the interim status of a person operating a hazardous waste facility if the facility meets those conditions specified above, has 3 or more class I violations, or a pending order for corrective action, other order or enforcement action, or settlement.*

*(4) Existing law requires the department to post certain information on or before January 1 of each odd-numbered year on its Internet Web site.*

*This bill would revise the information required to be posted and would require the information to be searchable and translated into Spanish.*

*(5) Existing law prohibits a person from transporting hazardous waste, as specified if the final destination of the transported hazardous waste is in a state other than this state or in a territory of the United States, unless the facility is issued a permit pursuant to the federal Resource Conservation and Recovery Act of 1976 or the facility is authorized by the state to accept that waste. Existing law requires the department to develop a specified database regarding hazardous waste shipped in and out of state.*

*This bill would additionally prohibit a person from taking that action if the final destination of the transported hazardous waste is in Indian country, as defined, unless those conditions apply to the facility. The bill would revise the information required to be included in the department's database with regard to hazardous waste shipped in and out of Indian country.*

*(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Legislature finds and declares all of the following:*
- 2     *(a) All hazardous waste landfill facilities and the majority of*
- 3     *other types of hazardous waste facilities in the state are located*
- 4     *in or near low-income Latino communities. The siting and*
- 5     *operation of the state's hazardous waste facilities near low-income*
- 6     *Latino communities disparately and adversely affects those*
- 7     *communities, in violation of both Section 11135 of the Government*
- 8     *Code and Title VI of the Civil Rights Act (42 U.S.C. Sec. 2000d*
- 9     *and following).*
- 10    *(b) Under Section 11135 of the Government Code and Title VI*
- 11    *of the Civil Rights Act, the Department of Toxic Substances Control*
- 12    *has a responsibility to prevent racial discrimination in the siting*
- 13    *and operation of hazardous waste disposal facilities.*
- 14    *(c) California needs a statewide hazardous waste disposal and*
- 15    *management plan to promote environmental justice, thereby*
- 16    *protecting the civil rights of minority residents in the communities*
- 17    *targeted for hazardous waste disposal facilities and other types*
- 18    *of hazardous waste management facilities.*
- 19    *(d) It is, therefore, the intent of the Legislature to establish a*
- 20    *moratorium on the issuance of permits to operators of hazardous*
- 21    *waste facilities that have failed to comply with a corrective action*
- 22    *order issued by the department until the department has developed*

1 *a plan to reduce the prevalence of hazardous waste facilities in*  
2 *low-income communities.*

3 *SEC. 2. Section 25117.3 is added to the Health and Safety*  
4 *Code, to read:*

5 *25117.3. “Indian country” has the same meaning as defined*  
6 *in Section 1151 of Title 18 of the United States Code.*

7 *SEC. 3. Section 25122.10 is added to the Health and Safety*  
8 *Code, to read:*

9 *25122.10. “Significant noncomplying operation” means a*  
10 *facility, an owner, or an operator that meets either of the following*  
11 *conditions:*

12 *(a) The facility, owner, or operator has been issued three*  
13 *separate class I violations by the department.*

14 *(b) The department finds that the facility, owner, or operator*  
15 *is in substantial deviation from the terms of a permit, order,*  
16 *including an order for corrective action, settlement document,*  
17 *corrective action, or other enforcement action issued pursuant to*  
18 *this chapter, because the facility, owner, or operator has failed to*  
19 *meet the requirements of the permit, order, settlement document,*  
20 *corrective action, or other enforcement action in a timely manner,*  
21 *or because the facility, owner, or operator has otherwise failed to*  
22 *undertake those actions specified by the department in the permit,*  
23 *order, settlement document, corrective action, or other enforcement*  
24 *action.*

25 *SEC. 4. Section 25135.9 of the Health and Safety Code is*  
26 *amended to read:*

27 *25135.9. (a) ~~The~~ For purposes of this section, the following*  
28 *definitions shall apply:*

29 *(1) “Environmental justice” means the fair treatment of people*  
30 *of all races, cultures, and incomes with respect to the development,*  
31 *adoption, implementation, and enforcement of environmental laws,*  
32 *regulations, and policies.*

33 *(2) “Hazardous waste landfill facility” means a hazardous*  
34 *waste facility that disposes of hazardous waste to land, as specified*  
35 *in Section 25174.1.*

36 *(b) The department shall, pursuant to this section and in*  
37 *accordance with the requirements of subdivision (e) (d) of Section*  
38 *25170, prepare and adopt a state hazardous waste management*  
39 *plan. The state hazardous waste management plan shall serve as*  
40 *a comprehensive planning document for the state and shall be*

1 prepared as a useful informational source for the public, local  
2 government, and regional councils of government. The state  
3 hazardous waste management plan shall be prepared in conjunction  
4 with, and shall take into account, hazardous waste management  
5 plans adopted by counties and regional councils of governments  
6 *hazardous waste management plan that would address matters of*  
7 *environmental justice in the management of the state's hazardous*  
8 *waste. The state's hazardous waste management plan adopted*  
9 *pursuant to this section shall serve as a comprehensive and*  
10 *enforceable planning document for the state to ensure that minority*  
11 *populations and low-income populations are not disproportionately*  
12 *impacted by the adverse human health, social, economic, and*  
13 *environmental effects of hazardous waste management, including*  
14 *disposal.*

15 ~~(b)~~

16 (c) The state hazardous waste management plan shall be  
17 prepared and adopted by the department on or before ~~November~~  
18 ~~30, 1991~~ *January 1, 2016*, shall be reviewed annually, and shall  
19 be revised to reflect new information at least once every three  
20 years.

21 ~~(e)~~

22 (d) In preparing and adopting the state hazardous waste  
23 management plan, and in revising the plan thereafter, the  
24 department shall do all of the following:

25 (1) Publish the draft plan or the revised plan *in English and*  
26 *Spanish* and make it available to the public for review and comment  
27 at least three months before final adoption.

28 (2) Conduct workshops and at least ~~two~~ *six* public hearings on  
29 the plan or the draft revised plan, one in the southern part of the  
30 state, *one in the central part of the state,* ~~and~~ one in the northern  
31 part of the state, *and one in each community that hosts a hazardous*  
32 *waste landfill facility*, to solicit the views of the public, local  
33 government, regional councils of governments, and interested  
34 parties.

35 (3) Include in the final state hazardous waste management plan  
36 and in revisions of the plan, a summary of the comments received  
37 and the department's responses to those comments.

38 ~~(d)~~

1 (e) The state hazardous waste management plan, and each  
2 revision of the plan, shall include, but need not be limited to, all  
3 of the following elements:

4 (1) An analysis of the hazardous waste streams produced in the  
5 state, an accounting of the volumes of hazardous waste produced  
6 in each county and region of the state, by type of waste, and  
7 estimates of the expected rates of hazardous waste production, by  
8 type of waste, during the next five years.

9 (2) An inventory of existing and planned hazardous waste  
10 facilities ~~which~~ *that* handle, treat, recycle, dispose, or otherwise  
11 manage hazardous wastes produced in the state. ~~The inventory~~  
12 ~~shall include a description of the facilities, a, which shall include~~  
13 ~~all of the following:~~

14 (A) *The racial and socioeconomic composition of populations*  
15 *within one-half-mile, one-mile, and five-mile radii around each*  
16 *existing or planned hazardous waste facility.*

17 (B) *A description of each facility and a full and complete*  
18 *summary of the facilities' compliance history, including, but not*  
19 *limited to, the enforcement actions taken by the department or any*  
20 *other state department or board that is within the California*  
21 *Environmental Protection Agency, and the penalties imposed*  
22 *pursuant to those enforcement actions.*

23 (C) A determination of the capacity of each existing or planned  
24 hazardous waste facility to handle, treat, recycle, dispose, or  
25 otherwise manage the waste streams it is authorized to handle,  
26 treat, recycle, dispose, or otherwise manage, ~~and a.~~

27 (D) A description of the current progress and status of each  
28 planned hazardous waste facility in achieving operational status,  
29 including a timetable for becoming operational.

30 (3) An assessment of the need for additional hazardous waste  
31 facilities to manage the volumes of hazardous waste currently  
32 produced or which are expected to be produced during the next  
33 20 years.

34 (4) An identification of the areas or regions of the state where  
35 new or expanded capacity to manage hazardous wastes are needed  
36 and the types of facilities that should be sited and constructed.

37 (5) A description of the *enforceable* policies, programs,  
38 incentives, requirements, prohibitions, or other measures ~~which,~~  
39 ~~if implemented, would reduce or eliminate the need for new or~~  
40 ~~expanded facilities necessary to eliminate the disproportionate~~

1 *impact of hazardous waste management, including disposal, on*  
2 *low-income and minority populations, including specific measures*  
3 *to reduce by 25 percent the amount of hazardous waste generated*  
4 *by 2020, using the year 2010 as a baseline.*

5 (6) A statement of goals, objectives, and policies currently in  
6 effect, or in the process of development, ~~for that address~~  
7 *environmental justice in the siting and operation of hazardous*  
8 *waste facilities and the management of hazardous wastes during*  
9 *the next five years.*

10 (7) A schedule of ~~recommended~~ *enforceable* actions, including  
11 specific dates, for carrying out state, regional, and local actions to  
12 implement the state hazardous waste management plan.

13 (f) *The director shall approve a hazardous waste management*  
14 *plan prepared in accordance with this section and shall submit*  
15 *the approved plan to the Assembly Committee on Environmental*  
16 *Safety and Toxic Materials and the Assembly Committee on Budget.*

17 SEC. 5. *Section 25135.10 is added to the Health and Safety*  
18 *Code, to read:*

19 25135.10. (a) *Notwithstanding Article 9 (commencing with*  
20 *Section 25200), the department shall not issue a hazardous waste*  
21 *facilities permit to the operator of a hazardous waste facility if the*  
22 *department finds the facility has not complied with an order issued*  
23 *pursuant to Section 25187.*

24 (b) *Subdivision (a) shall become inoperative on or after the date*  
25 *the director approves the state hazardous waste management plan*  
26 *pursuant to subdivision (f) of Section 25135.9 and the director*  
27 *submits the plan in accordance with that subdivision.*

28 SEC. 6. *Section 25135.11 is added to the Health and Safety*  
29 *Code, to read:*

30 25135.11. (a) (1) *A person may commence a civil action on*  
31 *that person's own behalf against a person who is alleged to be in*  
32 *violation of the regulations adopted pursuant to Section 25150.9.*

33 (2) *A person may commence a civil action on that person's own*  
34 *behalf alleging a failure by the department to perform an act or*  
35 *duty required under Section 25135.9, 25135.10, 25150.9, or 25200*  
36 *and that is not otherwise a discretionary act or duty.*

37 (b) *The superior court shall have jurisdiction to enforce a*  
38 *regulation specified in paragraph (1) of subdivision (a), or to order*  
39 *the department to perform an act or duty specified in paragraph*  
40 *(2) of subdivision (a), and to apply any appropriate civil penalties.*



1     (c) In an action brought pursuant to paragraph (2) of  
2     subdivision (a), the inquiry shall extend to the question of whether  
3     the department has proceeded without, or in excess of, its  
4     jurisdiction, and whether there was any prejudicial abuse of  
5     discretion. The court shall find that an abuse of discretion has  
6     been established if the department has not proceeded in the manner  
7     required by law, if the act or duty is not supported by the  
8     department's findings, or if the department's findings are not  
9     supported by the evidence. If it is claimed that the findings are not  
10    supported by the evidence, the court shall find that an abuse of  
11    discretion is established if the court determines that the findings  
12    are not supported by the weight of the evidence.

13    SEC. 7. Section 25150.9 is added to the Health and Safety  
14    Code, to read:

15    25150.9. Upon the approval of the state hazardous waste  
16    management plan pursuant to subdivision (f) of Section 25135.9,  
17    the department shall adopt regulations to implement the plan to  
18    ensure that minority populations and low-income populations are  
19    not disproportionately impacted by the adverse health, social,  
20    economic, and environmental effects of the hazardous waste  
21    managed pursuant to this chapter.

22    SEC. 8. Section 25161 of the Health and Safety Code is  
23    amended to read:

24    25161. (a) The department may adopt and enforce those  
25    regulations, regarding a uniform program for hazardous waste  
26    transportation, that are necessary and appropriate to achieve  
27    consistency with the findings made by the Federal Highway  
28    Administration and the federal Department of Transportation  
29    pursuant to Chapter 51 (commencing with Section 5101) of Title  
30    49 of the United States Code.

31    (b) The department shall adopt and enforce all rules and  
32    regulations that are necessary and appropriate to accomplish the  
33    purposes of Section 25160.

34    (c) The department shall develop a ~~data base~~ database that tracks  
35    all hazardous waste shipped in and out of state for handling,  
36    treatment, storage, disposal, or any combination thereof, which  
37    includes all of the following information:

38    (1) The state, *Indian country*, or country receiving the waste.

39    (2) Month and year of shipment.

40    (3) Type of hazardous waste shipped.

(4) The manner in which the hazardous waste was handled at its final destination, such as incineration, treatment, recycling, land disposal, or a combination thereof.

(d) The department shall include in the biennial report specified in Section 25178 all of the following information:

(1) The total volume in tons of hazardous waste generated in the state and shipped offsite for handling, treatment, storage, disposal, or any combination thereof.

(2) The total volume in tons of hazardous waste generated in the state and shipped in and out of the state for handling, treatment, storage, disposal, or any combination thereof, including all of the following information:

(A) The state, *Indian country*, or country receiving the hazardous waste.

(B) Month and year of shipment.

(C) Type of hazardous waste shipped.

(D) The manner in which the hazardous waste was handled at its final destination, such as incineration, treatment, recycling, land disposal, or a combination thereof.

*SEC. 9. Section 25162 of the Health and Safety Code is amended to read:*

25162. (a) ~~No~~A person shall ~~not~~ transport ~~any~~ hazardous waste on the highways of this state, or deliver to a railroad or vessel ~~any~~ hazardous waste for transport; if the final destination of the transported hazardous waste is a facility in *Indian country*, in a state other than this state, or in a territory of the United States, unless one of the following applies:

(1) The facility has been issued a permit pursuant to subsection (c) or (g), or has been granted authority to operate pursuant to subsection (e); of Section 3005 of the federal act (42 U.S.C. Sec. 6925) by either of the following:

(A) The *United States* Environmental Protection Agency.

(B) The state in which the facility is located, if the state has authorization to operate a hazardous waste program pursuant to Section 3006 of the federal act (42 U.S.C. Sec. 6926).

(2) The facility is authorized by the state *or location* in which it is located, pursuant to the applicable laws or regulations of that state *or location*, to accept the transported hazardous waste for transfer, handling, recycling, storage, treatment, or disposal.

1 (b) ~~No~~ A person shall *not* transport ~~any~~ hazardous waste on the  
2 highways of this state, or deliver to a railroad or vessel ~~any~~  
3 hazardous waste for transport, if the final destination of the  
4 transported hazardous waste is a facility ~~which~~ *that* is located on  
5 a site ~~which~~ *that* has been listed on the National Priorities List  
6 established pursuant to ~~subparagraph (B) of paragraph (8) of~~  
7 Section 105 of the Comprehensive Environmental Response,  
8 Compensation, and Liability Act of 1980, as amended (42 U.S.C.  
9 Sec. ~~9605(8)(B)~~ 9605(a)(8)(B)).

10 (c) ~~Any~~ A person who knowingly transports or causes the  
11 transportation of, or who reasonably should have known that the  
12 person was causing the transportation of, ~~any~~ hazardous waste in  
13 violation of subdivision (a) or (b) shall, upon conviction, be subject  
14 to the penalties specified in subdivision (a) of Section 25191.

15 (d) ~~Any~~ A person who knowingly delivers, or arranges the  
16 delivery of, ~~any~~ hazardous waste to another person for transport  
17 in violation of subdivision (a) or (b) shall, upon conviction, be  
18 subject to the penalties specified in subdivision (a) of Section  
19 25191.

20 (e) ~~No~~ A person shall *not* transport ~~any~~ hazardous waste ~~which~~  
21 *that* is subject to the requirements of Section 3017 of the federal  
22 act (42 U.S.C. Sec. 6938) on the highways of this state or deliver  
23 to a railroad or vessel any of this hazardous waste for transport, if  
24 the final destination of the transported hazardous waste is a foreign  
25 country, unless the shipment is in compliance with the applicable  
26 regulations adopted pursuant to Section 25150.2 and either of the  
27 following conditions is met:

28 (1) A copy of the foreign country's written consent to receive  
29 the hazardous waste, or a copy of the EPA Acknowledgement of  
30 Consent, as defined in Section 262. 51 of Title 40 of the Code of  
31 Federal Regulations, is attached to the manifest required by this  
32 article.

33 (2) The hazardous waste shipment is in compliance with the  
34 terms of an international agreement between the United States and  
35 the receiving foreign country, as provided in subsection (f) of  
36 Section 3017 of the federal act (42 U.S.C. Sec. 6938 (f)).

37 (f) ~~Any~~ A person who knowingly violates, or who reasonably  
38 should have known that the person was violating, subdivision (e)  
39 shall, upon conviction, be subject to the penalties specified in  
40 subdivision (a) of Section 25191.

1     *SEC. 10. Section 25178 of the Health and Safety Code is*  
2     *amended to read:*

3     25178. On or before January 1 of each odd-numbered year, the  
4     department shall post on its *Internet Web site and translate into*  
5     *Spanish*, at a minimum, all of the following:

6     (a) The status of the regulatory and program developments  
7     required pursuant to legislative mandates.

8     (b) ~~(1)~~ The status of the hazardous waste facilities permit  
9     program, that shall include all of the following information:

10    ~~(A)~~

11    (1) A description of the final hazardous waste facilities permit  
12    applications received.

13    ~~(B) The number~~

14    (2) A *searchable list* of final hazardous waste facilities permits  
15    issued to date.

16    ~~(C) The number~~

17    (3) A *searchable list* of final hazardous waste facilities permits  
18    yet to be issued.

19    ~~(D)~~

20    (4) A complete description of the reasons why the final  
21    hazardous waste facilities permits yet to be issued have not been  
22    issued.

23    ~~(2) For purposes of paragraph (1), "hazardous waste facility"~~  
24    ~~means a facility that uses a land disposal method, as defined in~~  
25    ~~subdivision (d) of Section 25179.2, and that disposes of wastes~~  
26    ~~regulated as hazardous waste pursuant to the federal act.~~

27    (c) The status of the hazardous waste facilities siting program.

28    (d) The status of the hazardous waste abandoned sites program.

29    (e) A ~~summary~~ *searchable list* of enforcement actions taken by  
30    the department pursuant to this chapter and ~~any~~ other *enforcement*  
31    actions relating to hazardous waste management. *The list shall*  
32    *specify whether the violations have been corrected and shall*  
33    *include Internet Web links to inspection reports, draft orders, final*  
34    *orders, and enforcement actions taken by other agencies.*

35    (f) A *searchable list of significant noncomplying operations.*

36    ~~(f)~~

37    (g) Summary data on annual quantities and types of hazardous  
38    waste generated, transported, treated, stored, and disposed.

39    ~~(g)~~

1 (h) Summary data regarding *the* onsite and offsite disposition  
2 of hazardous waste.

3 ~~(h)~~

4 (i) Research activity initiated by the department.

5 ~~(i)~~

6 (j) Regulatory action by other agencies relating to hazardous  
7 waste management.

8 ~~(j)~~

9 (k) A revised listing of recyclable materials showing any  
10 additions or deletions to the list prepared pursuant to Section 25175  
11 that have occurred since the last report.

12 ~~(k)~~

13 (l) Any other data considered pertinent by the department to  
14 hazardous waste management.

15 ~~(l)~~

16 (m) The information specified in subdivision (c) of Section  
17 25161, paragraph (4) of subdivision ~~(a)~~ (b) of Section 25197.1,  
18 subdivision (c) of Section 25354, and ~~Sections~~ Section 25334.7;  
19 and ~~25356.5~~.

20 ~~(m)~~

21 (n) A status report on the cleanup of the McColl Hazardous  
22 Waste Disposal Site in Orange County.

23 SEC. 11. Section 25186 of the Health and Safety Code is  
24 amended to read:

25 25186. (a) The department may deny, suspend, or revoke ~~any~~  
26 a permit, registration, or certificate applied for, or issued, pursuant  
27 to this chapter in accordance with the procedures specified in  
28 Sections 25186.1 and 25186.2, ~~where if~~ the applicant or holder of  
29 the permit, registration, or certificate, or in the case of a business  
30 concern, ~~any~~ a trustee, officer, director, partner, or ~~any~~ a person  
31 holding more than 5 percent of the equity in or debt liability of  
32 that business concern, has engaged in any of the following:

33 ~~(a)~~

34 (1) ~~Any~~ A violation of, or noncompliance with, ~~this chapter,~~  
35 ~~Chapter~~ any of the following, if the violation or noncompliance  
36 shows a repeating or recurring pattern or may pose a threat to  
37 public health or safety or the environment:

38 (A) This chapter.

39 (B) Chapter 6.7 (commencing with Section ~~25280~~), Chapter  
40 25280).

1 (C) *Chapter 6.8* (commencing with Section ~~25300~~), the 25300).

2 (D) *The Porter-Cologne Water Quality Control Act* (Division  
3 7 (commencing with Section 13000) of the ~~Water Code~~), the  
4 ~~Resource Conservation and Recovery Act of 1976~~, as amended,  
5 (~~42 U.S.C. Sec. 6901 et seq.~~), the *Code*).

6 (E) *The federal act*.

7 (F) *The Hazardous Materials Transportation Act*, as amended  
8 (~~49 U.S.C. Sec. 5101 et seq.~~), the *seq.*).

9 (G) *The Comprehensive Environmental Response,*  
10 *Compensation, and Liability Act of 1980* (42 U.S.C. Sec. 9601 et  
11 ~~seq.~~), the *seq.*).

12 (H) *The Toxic Substances Control Act* (15 U.S.C. Sec. 2601 et  
13 ~~seq.~~) or any *seq.*).

14 (I) Any other equivalent federal or state statute or any  
15 requirement or regulation adopted pursuant thereto relating to the  
16 generation, transportation, treatment, storage, recycling, disposal  
17 or handling of a hazardous waste, as defined in Section 25117, a  
18 hazardous substance, as defined in Section 25316, or a hazardous  
19 material, as defined in Section 353 of the *Vehicle Code*, if the  
20 violation or noncompliance shows a repeating or recurring pattern  
21 or may pose a threat to public health or safety or the environment.

22 (b)

23 (2) The aiding, abetting, or permitting of any a violation of, or  
24 noncompliance with, this chapter, Chapter any of the following, if  
25 the violation or noncompliance shows a repeating or recurring  
26 pattern or may pose a threat to public health or safety or the  
27 environment:

28 (A) *This chapter*.

29 (B) *Chapter 6.7* (commencing with Section ~~25280~~); Chapter  
30 25280).

31 (C) *Chapter 6.8* (commencing with Section ~~25300~~), the 25300).

32 (D) *The Porter-Cologne Water Quality Act* (Division 7  
33 (commencing with Section 13000) of the ~~Water Code~~), the  
34 ~~Resource Conservation and Recovery Act of 1976~~, as amended,  
35 (~~42 U.S.C. Sec. 6901 et seq.~~), the *Code*).

36 (E) *The federal act*.

37 (F) *The Hazardous Materials Transportation Act*, as amended  
38 (~~49 U.S.C. Sec. 5101 et seq.~~), the *seq.*).

1 (G) *The Comprehensive Environmental Response,*  
2 *Compensation and Liability Act of 1980 (42 U.S.C. Sec. 9601 et*  
3 *seq.), the seq.).*

4 (H) *The Toxic Substances Control Act (15 U.S.C. Sec. 2601 et*  
5 *seq.), or any seq.).*

6 (I) *Any other equivalent federal or state statute or any*  
7 *requirement or regulation adopted pursuant thereto relating to the*  
8 *generation, transportation, treatment, storage, recycling, disposal*  
9 *or handling of a hazardous waste, as defined in Section 25117, a*  
10 *hazardous substance, as defined in Section 25316, or a hazardous*  
11 *material, as defined in Section 353 of the Vehicle Code, if the*  
12 *violation or noncompliance shows a repeating or recurring pattern*  
13 *or may pose a threat to public health or safety or the environment.*

14 (e)

15 (3) ~~Any~~ *A violation of, or noncompliance with, any an order*  
16 *issued by a state or local agency or by a hearing officer or a court*  
17 *relating to the generation, transportation, treatment, storage,*  
18 *recycling, disposal or handling of a hazardous waste, as defined*  
19 *in Section 25117, a hazardous substance, as defined in Section*  
20 *25316, or a hazardous material, as defined in Section 353 of the*  
21 *Vehicle Code.*

22 (d)

23 (4) ~~Any~~ *A misrepresentation or omission of a significant fact*  
24 *or other required information in the application for the permit,*  
25 *registration, or certificate, or in information subsequently reported*  
26 *to the department or to a local officer or agency authorized to*  
27 *enforce this chapter pursuant to subdivision (a) of Section 25180.*

28 (e)

29 (5) *Activities resulting in any a federal or state conviction which*  
30 *that are significantly related to the fitness of the applicant or holder*  
31 *of the permit, registration, or certificate to perform the applicant's*  
32 *duties or activities under the permit, registration, or certificate.*  
33 *For the purposes of this subdivision, "conviction" means a plea or*  
34 *verdict of guilty or a conviction following a plea of nolo*  
35 *contendere. Any action which that the department may take*  
36 *pursuant to this subdivision relating to the denial, suspension or*  
37 *revocation of a permit, registration, or certificate may be based*  
38 *upon a conviction for which any of the following has occurred:*

39 (1)

40 (A) *The time for appeal has elapsed.*

1     ~~(2)~~

2     (B) The judgment of conviction has been affirmed on appeal.

3     ~~(3)~~

4     (C) Any order granting probation is made suspending the  
5 imposition of sentence, notwithstanding a subsequent order  
6 pursuant to Section 1203.4 of the Penal Code permitting that person  
7 to withdraw the person's plea of guilty, and to enter a plea of not  
8 guilty, or setting aside the verdict of guilty, or dismissing the  
9 accusation, information, or indictment.

10    ~~(f)~~

11    (6) Activities resulting in the revocation or suspension of ~~any~~  
12 a license, permit, registration or certificate held by the applicant  
13 or holder of the permit, registration or certificate or, if the applicant  
14 or holder of the permit, registration, or certificate is a business  
15 concern, by ~~any~~ a trustee, officer, director, partner, or ~~any~~ a person  
16 holding more than 5 percent of the equity in, or debt liability of  
17 that business concern relating to, the generation, transportation,  
18 treatment, storage, recycling, disposal, or handling of a hazardous  
19 waste, as defined in Section 25117, a hazardous substance, as  
20 defined in Section 25316, or a hazardous material, as defined in  
21 Section 353 of the Vehicle Code.

22    (7) *Activities resulting in the applicant or permitholder meeting*  
23 *the definition of a significant noncomplying operation.*

24    (b) *The department shall revoke the interim status of a person*  
25 *operating a hazardous waste facility pursuant to Section 25200.5*  
26 *if the facility is subject to any of the following actions:*

27    (1) *Denial of a hazardous waste facilities permit.*

28    (2) *Suspension, revocation, or termination of a hazardous waste*  
29 *facilities permit.*

30    (3) *Termination of a grant of interim status.*

31    (4) *Three or more notices of a class I violation.*

32    (5) *A pending corrective action order, or other order or*  
33 *enforcement action, or a settlement.*

34    SEC. 12. Section 25200 of the Health and Safety Code is  
35 amended to read:

36    25200. (a) (1) The department ~~shall~~ may issue hazardous  
37 waste facilities permits to use and operate one or more hazardous  
38 waste management units at a facility that in the judgment of the  
39 department meet ~~the~~ all of the following requirements:



1 (A) *Meet the building standards published in the State California*  
2 *Building Standards Code relating to hazardous waste facilities and*  
3 *facilities.*

4 (B) *Comply with the regulations adopted pursuant to Section*  
5 *25150.9.*

6 (C) *Comply with the other standards and requirements adopted*  
7 *pursuant to this chapter.*~~The~~

8 (2) *The department shall impose conditions on each hazardous*  
9 *waste facilities permit specifying the types of hazardous wastes*  
10 *that may be accepted for transfer, storage, treatment, or disposal.*  
11 *The department may impose any other conditions condition on a*  
12 *hazardous waste facilities permit that are is consistent with the*  
13 *intent of this chapter.*

14 (3) *The department shall not issue a hazardous waste facilities*  
15 *permit to a significant noncomplying operation.*

16 (b) The department may impose, as a condition of a hazardous  
17 waste facilities permit, a requirement that the owner or operator  
18 of a hazardous waste facility that receives hazardous waste from  
19 more than one producer comply with ~~any~~ *an* order of the director  
20 that prohibits the facility operator from refusing to accept a  
21 hazardous waste based on geographical origin that is authorized  
22 to be accepted and may be accepted by the facility without  
23 extraordinary hazard.

24 (c) (1) (A) ~~Any~~ *A hazardous waste facilities permit issued by*  
25 *the department shall be for a fixed term, which shall not exceed*  
26 *10 years for any a land disposal facility, storage facility,*  
27 *incinerator, or other treatment facility.*

28 (B) ~~Before~~ *Except as provided in subparagraph (C), before the*  
29 *fixed term of a permit expires, the owner or operator of a facility*  
30 *intending to extend the term of the facility's permit shall submit*  
31 *a complete Part A application for a permit renewal. At any time*  
32 *following the submittal of the Part A application, the owner or*  
33 *operator of a facility shall submit a complete Part B application,*  
34 *or any portion thereof, as well as any other relevant information,*  
35 *as and when requested by the department. To the extent not*  
36 *inconsistent with the federal act, when a complete Part A renewal*  
37 *application, and any other requested information, has been*  
38 *submitted before the end of the permit's fixed term, the permit is*  
39 *deemed extended until the renewal application is approved or*

1 denied and the owner or operator has exhausted all applicable  
2 rights of appeal.

3 *(C) If the owner or operator of the hazardous waste facility is*  
4 *a significant noncomplying operation, the owner or operator may*  
5 *not apply to extend the term of the permit pursuant to*  
6 *subparagraph (B).*

7 ~~(C)~~

8 *(D)* This section does not limit or restrict the department's  
9 authority to impose any additional or different conditions on an  
10 extended permit that are necessary to protect human health and  
11 the environment.

12 ~~(D)~~

13 *(E)* In adopting new conditions for an extended permit, the  
14 department shall follow the applicable permit modification  
15 procedures specified in this chapter and the regulations adopted  
16 pursuant to this chapter.

17 ~~(E)~~

18 *(F)* When prioritizing pending renewal applications for  
19 processing and in determining the need for any new conditions on  
20 an extended permit, the department shall consider any input  
21 received from the public.

22 (2) The department shall review each hazardous waste facilities  
23 permit for a land disposal facility five years after the date of  
24 issuance or reissuance, and shall modify the permit, as necessary,  
25 to assure that the facility continues to comply with the currently  
26 applicable requirements of this chapter and the regulations adopted  
27 pursuant to this chapter.

28 (3) This subdivision does not prohibit the department from  
29 reviewing, modifying, or revoking a permit at any time during its  
30 term.

31 (d) (1) When reviewing ~~any~~ *an* application for a permit renewal,  
32 the department shall consider improvements in the state of control  
33 and measurement technology as well as changes in applicable  
34 regulations.

35 (2) Each permit issued or renewed under this section shall  
36 contain the terms and conditions that the department determines  
37 necessary to protect human health and the environment.

38 (e) A permit issued pursuant to the federal act by the  
39 Environmental Protection Agency in the state for which no state  
40 hazardous waste facilities permit has been issued shall be deemed

1 to be a state permit enforceable by the department until a state  
2 permit is issued. In addition to complying with the terms and  
3 conditions specified in a federal permit deemed to be a state permit  
4 pursuant to this section, an owner or operator who holds that permit  
5 shall comply with the requirements of this chapter and the  
6 regulations adopted by the department to implement this chapter.

7 *SEC. 13. Section 25200.5 of the Health and Safety Code is*  
8 *amended to read:*

9 25200.5. (a) Except as provided in Sections 25200.7 and  
10 25200.9, ~~any~~ a person who desires to continue the use or operation  
11 of a hazardous waste facility ~~which that~~ was in existence on  
12 November 19, 1980, or ~~which that~~ was in existence on the effective  
13 date of any statute or regulation ~~which that~~ subjected that facility  
14 to hazardous waste facilities permit requirements under this  
15 chapter, pending the review and decision of the department on the  
16 permit application, may be granted interim status by the department  
17 if the person has made application for a permit pursuant to Section  
18 25200, or has made application pursuant to Section 25201.6, and,  
19 if treating a *hazardous* waste regulated pursuant to the federal act,  
20 has complied with the requirements of subsection (a) of Section  
21 6930 of Title 42 of the United States Code.

22 (b) The person operating under an interim status pursuant to  
23 this section shall not do any of the following acts:

24 (1) Treat, store, transfer, or dispose of hazardous wastes ~~which~~  
25 ~~that~~ are not specified in Part A of the permit application.

26 (2) Employ processes not described in Part A of the permit  
27 application.

28 (3) Exceed the design capacities specified in Part A of the permit  
29 application.

30 (c) A facility operating under interim status is not subject to  
31 civil or criminal penalties for operating without a permit, but is  
32 otherwise subject to this chapter and the rules, regulations,  
33 standards, and requirements issued or adopted pursuant to this  
34 chapter. Interim status may be granted subject to ~~any~~ conditions  
35 ~~which that~~ the department deems necessary to protect public health  
36 or the environment. Interim status shall not be valid beyond the  
37 date of the decision of the department on the permit application.

38 (d) The department shall not grant interim status to ~~any~~ a person  
39 to operate a hazardous waste facility if the facility has been subject  
40 to any of the following actions:

1 (1) Denial of a hazardous waste facilities permit.  
2 (2) Suspension, revocation, or termination of a hazardous waste  
3 facilities permit.

4 (3) Termination of a grant of interim status.

5 (4) *Three or more notices of a class I violation.*

6 (5) *A pending corrective order, other order or enforcement*  
7 *action, or a settlement.*

8 (e) For purposes of this section, “Part A of the permit  
9 application” has the same meaning as defined in Section 66151 of  
10 Title 22 of the California Code of Regulations, as that section read  
11 on January 1, 1988.

12 (f) ~~Any A land disposal facility, as defined in subdivision (h)~~  
13 ~~of Section 25179.3, which~~ *that* lost interim status pursuant to  
14 paragraph (2) or (3) of subsection (e) of Section 6925 of Title 42  
15 of the United States Code is deemed to have lost interim status  
16 granted under this section to operate a facility managing hazardous  
17 waste regulated pursuant to the ~~Resource Conservation and~~  
18 ~~Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.)~~  
19 *federal act.*

20 (g) The termination date for interim status for ~~any a~~ land  
21 disposal facility, ~~as defined in subdivision (h) of Section 25179.3,~~  
22 ~~which~~ *that* is in existence on the effective date of ~~any a~~ statute or  
23 the regulation adopted pursuant to that statute ~~which~~ *that* subjects  
24 the facility to hazardous waste facilities permit requirements under  
25 this chapter, and ~~which~~ *that* is granted interim status under this  
26 section, is the date 12 months after the date on which the facility  
27 first becomes subject to the hazardous waste facilities permit  
28 requirements, unless one of the following applies:

29 (1) Part A of the facility’s permit application specifies that only  
30 non-RCRA hazardous waste will be disposed of at the facility, in  
31 which case the facility is subject to the termination date specified  
32 in Section 25200.11, if the facility is subject to Section 25200.11.

33 (2) The owner or operator of the facility does both of the  
34 following:

35 (A) Applies for a final determination regarding the issuance of  
36 a hazardous waste facilities permit under Section 25200 for the  
37 facility before the date 12 months after the date on which the  
38 facility first becomes subject to the hazardous waste facilities  
39 permit requirements.

1 (B) Certifies that the facility is in compliance with all applicable  
2 groundwater monitoring and financial responsibility requirements.

3 (h) The termination date for interim status for ~~any~~ *an* incinerator  
4 facility ~~which~~ *that* submitted an application for a hazardous waste  
5 facilities permit before November 8, 1984, is November 8, 1989,  
6 unless one of the following applies:

7 (1) Part A of the facility's permit application specifies that only  
8 non-RCRA hazardous waste will be incinerated at the facility, in  
9 which case the facility is subject to the termination date specified  
10 in Section 25200.11, if the facility is subject to Section 25200.11.

11 (2) The owner or operator of the facility applied for a final  
12 determination regarding the issuance of a hazardous waste facilities  
13 permit under Section 25200 for the facility on or before November  
14 8, 1986.

15 (i) The termination date for interim status for any facility, other  
16 than a facility specified in subdivision (g) or (h), ~~which~~ *that*  
17 submitted an application for a hazardous waste facilities permit  
18 before November 8, 1984, is November 8, 1992, unless one of the  
19 following applies:

20 (1) Part A of the facility's permit application specifies that only  
21 non-RCRA hazardous waste will be transferred, treated, or stored  
22 at the facility, and the facility is in compliance with its Part A  
23 application, in which case the facility is subject to the termination  
24 date specified in Section 25200.11, if the facility is subject to  
25 Section 25200.11.

26 (2) The owner or operator of the facility applied for a final  
27 determination regarding the issuance of a hazardous waste facilities  
28 permit under Section 25200 for the facility on or before November  
29 8, 1988.

30 (j) On or before July 1, 1993, the department shall take final  
31 action on each application for a hazardous waste facilities permit,  
32 to be issued pursuant to Section 25200, ~~which~~ *that* was filed before  
33 November 8, 1984, for an offsite hazardous waste facility subject  
34 to subdivision (i), and not subject to Section 25200.7 or 25200.11.  
35 In taking final action pursuant to this subdivision, the department  
36 shall either issue the hazardous waste facilities permit or make a  
37 final denial of the application.

38 (k) (1) Notwithstanding any other provision of law or  
39 regulation, except as provided in paragraph (2), a hazardous waste  
40 facility operating pursuant to this section shall comply with the

1 requirements of Article 4 (commencing with Section 66270.40)  
2 of Chapter 20 of Division 4.5 of Title 22 of the California Code  
3 of Regulations.

4 (2) The requirements of paragraph (1) do not apply to an inactive  
5 facility that is no longer accepting offsite hazardous waste and that  
6 has notified the department of its intent to close.

7 *SEC. 14. The provisions of this act are severable. If any*  
8 *provision of this act or its application is held invalid, that invalidity*  
9 *shall not affect other provisions or applications that can be given*  
10 *effect without the invalid provision or application.*

11 *SEC. 15. No reimbursement is required by this act pursuant*  
12 *to Section 6 of Article XIII B of the California Constitution because*  
13 *the only costs that may be incurred by a local agency or school*  
14 *district will be incurred because this act creates a new crime or*  
15 *infraction, eliminates a crime or infraction, or changes the penalty*  
16 *for a crime or infraction, within the meaning of Section 17556 of*  
17 *the Government Code, or changes the definition of a crime within*  
18 *the meaning of Section 6 of Article XIII B of the California*  
19 *Constitution.*

20 ~~SECTION 1. (a) The Legislature finds and declares all of the~~  
21 ~~following:~~

22 ~~(1) All hazardous waste disposal facilities in the state are located~~  
23 ~~in or near low-income communities of color. The siting and~~  
24 ~~operation of the state's hazardous waste disposal facilities near~~  
25 ~~only low-income minority communities disparately and adversely~~  
26 ~~affects those communities.~~

27 ~~(2) California agencies have a responsibility to prevent racial~~  
28 ~~and socio-economic disparities in the siting of harmful or noxious~~  
29 ~~facilities. These agencies require tools to identify and address~~  
30 ~~systemic barriers to achieving more equitable hazardous waste~~  
31 ~~disposal outcomes.~~

32 ~~(3) A concerted plan to address these disparities is necessary to~~  
33 ~~protect the civil rights of minority residents in the communities~~  
34 ~~targeted for hazardous waste disposal and handling facilities.~~

35 ~~(b) It is the intent of the Legislature to enact subsequent~~  
36 ~~legislation to require the Department of Toxic Substances Control~~  
37 ~~to develop a long-term plan to identify inequities in the siting of~~  
38 ~~hazardous waste disposal facilities and provide for enforceable~~  
39 ~~strategies to eliminate those inequities.~~

O